

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

DESTROY E. THOMAS, #1257786	§	
VS.	§	CIVIL ACTION NO. 9:06cv41
DAVID STACKS, ET AL.	§	

ORDER OF DISMISSAL

Plaintiff Destroy E. Thomas, an inmate previously confined at the Eastham Unit of the Texas prison system, proceeding *pro se* and *in forma pauperis*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The complaint was referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the lawsuit should be dismissed pursuant to the “three strikes” provision of 28 U.S.C. § 1915(g). The Plaintiff has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections of the Plaintiff are without merit. The Plaintiff’s objections state nothing more than he should be permitted to proceed *in forma pauperis*. He did not dispute the fact that he had three or more cases and/or appeals dismissed as frivolous before he filed the present lawsuit. He likewise failed to show that the exception to § 1915(g) is applicable, which requires him to show that he was under imminent danger of serious physical injury. The objections lack merit. Therefore the Court hereby adopts the

findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

**ORDERED** that the cause of action is **DISMISSED** with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). The Plaintiff's *in forma pauperis* status is revoked. The Plaintiff may resume the lawsuit if he pays the entire filing fee of \$250 within thirty days from the entry of this order. *See Carson v. Johnson*, 112 F.3d 818, 823 (5th Cir. 1997). It is finally

**ORDERED** that all motions by either party not previously ruled on are hereby **DENIED**.

So **ORDERED** and **SIGNED** this **23** day of **March, 2006**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge